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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/686,185

10/14/2003

Paul Q. Escudero

212/464

3783

7590  
Crockett & Crockett  
Suite 400  
24012 Calle De La Plata  
Laguna Hills, CA 92653

05/15/2007

EXAMINER

DEMILLE, DANTON D

ART UNIT

PAPER NUMBER

3771

MAIL DATE

DELIVERY MODE

05/15/2007

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

**Office Action Summary**

Application No.

10/686,185

Applicant(s)

ESCUDETO ET AL.

Examiner

Danton DeMille

Art Unit

3771

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 16 March 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 2-30 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 2-30 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_.

## DETAILED ACTION

### *Oath/Declaration*

The oath or declaration is defective. A new oath or declaration in compliance with 37 CFR 1.67(a) identifying this application by application number and filing date is required. See MPEP §§ 602.01 and 602.02.

The oath or declaration is defective because:

It does not state that the person making the oath or declaration acknowledges the duty to disclose to the Office all information known to the person to be material to patentability as defined in 37 CFR 1.56.

The present declaration recites “material to the patentability of this application in accordance with Title 37, Code of Federal Regulations Sec. 1.56(a)”. The entire rule has to be recited not just paragraph (a).

### *Specification*

The specification remains rejected under 35 U.S.C. § 112, first paragraph, as failing to provide an adequate written description of the invention.

Applicant has stated that the platform 4 is located inside the loop formed by the belt as shown in figure 5. It was stated that the spool 42 engages spline 66 which would then be the lower part of the platform 4 as shown in figure 5 however, the spool 42 is in the top of the platform 4 as shown in figure 2. With this arrangement the top of the platform 4 would be facing downwards in figure 5. It is not clear why the top of the platform would be facing downwards in figure 5. Wouldn't the patient then be laying on the bottom of the platform during use?

Claims 2-30 are rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not adequately described as set forth in the above rejection to the specification.

***Double Patenting***

Claims 2-4, 6, 7, 9, 15, 21, 22, 29, 30 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 21 of copending Application No. 10/686186 in view of Cantrell et al. Cantrell teaches the pull straps are attached to the means for tightening the belt and transition sections between the pull straps and the load distribution section 71. It would have been obvious to one of ordinary skill in the art to modify the copending claims to attach the pull straps to the means for tightening as taught by Cantrell because the narrow portion of the strap is portion that is attached to the means for tightening.

This is a provisional obviousness-type double patenting rejection.

***Claim Rejections - 35 USC § 112***

Claim 7 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

There appears to be no antecedent basis for "the cover plate" in the penultimate line of claim 7.

***Claim Rejections - 35 USC § 103***

**Claims 2-4, 6, 7, 9, 14, 15, 21, 22, 29, 30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sherman et al. (US Pat. No. 6,066,106) in view of Cantrell et al.**

Sherman teaches a compression belt cartridge 3 comprising a belt with pull straps 34 and first and second load distribution sections 32L, 32R. The pull straps are recited as being a cable 34. There appears to be no unobviousness to the specific detail of the structure of the cable 34.

A cord or strap would have been an obvious equivalent alternative detail as long as it provides a reduced width to decrease friction as taught by Sherman column 8, lines 46-52. Cantrell teaches in figure 5 a belt to be disposed around the patient that includes a reduced strap section 72 with an enlarged load distribution section 75 attached at first and second pull strap ends. A trapezoidal transition section is also taught by Cantrell. It would have been obvious to one of ordinary skill in the art to modify Sherman to use a strap instead of a cord as taught by Cantrell as an obvious equivalent detail to the structure of the cord.

Regarding claim 6, Sherman teaches a cover plate 11R.

Regarding claims 22, 30, since the belt cartridge 26 can be removably attached from the platform, inherently a like second belt cartridge can be attached to replace the first belt cartridge should the first one become damaged. Such would have been an obvious provision.

**Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over the references as applied to claim 3 above, and further in view of Meister.**

Meister teaches compression pads 3 attached to the belt to help protect the patient. It would have been obvious to one of ordinary skill in the art to further modify Sherman to include compression pads as taught by Meister any where along the belt to help protect and cushion the patient.

**Claims 13, 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over the references as applied to claim 3 above, and further in view of Kuroshaki et al.**

Kuroshaki teaches the outer most layer 52 is formed of nylon pile including fibers finely corrugated in the longitudinal direction, column 9, lines 35-38. It would have been obvious to one of ordinary skill in the art to further modify Sherman to use nylon with unidirectional fibers

as taught by Kuroshaki to restrict the elasticity in the longitudinal direction.

***Response to Arguments***

Applicant's arguments with respect to claims 1-30 have been considered but are moot in view of the new ground(s) of rejection.

While it was agreed during the interview that adding the platform to figure 5 would help show the relationship between the platform and the belt during use, the relationship between the platform and the belt and belt cover remain unclear. While placing the platform within the loop of the belt in figure 5 does place the spline in direct contact with the spool 42 it would appear that the platform would then be upside down. The top of the platform would then be facing downward in the figure with the compression pad 65 on the opposite side of the platform i.e., on the bottom side of the platform. It is not clear why the top of the platform and the instructions would be underneath the device against the ground surface.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Danton DeMille whose telephone number is (571) 272-4974. The examiner can normally be reached on M-F from 8:30 to 6:00 EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Justine Yu, can be reached on (571) 272-4835. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

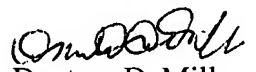
Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR

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system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

11 May 2007

  
Danton DeMille  
Primary Examiner  
Art Unit 3771